

Multinational Democracies

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I So many nations, so few states: territory and nationalism in the global era¹

Michael Keating

Introduction

Debates about the relationship of the state to the nation go back to the last century. The contemporary revival of nationalism and the emergence of new states, together with continental integration, have kindled new interest in the question. There is general agreement that there are more potential nations than possible states, yet the search for general principles which could define nationality and the conditions under which nationalities could qualify for self-government has proved inconclusive. Instead it is a matter of reconciling competing claims for nationality and the rights that go with it. Approaches to the normative questions of how to reconcile state and nation and the right of self-determination take two forms. Political theorists start from general principles and, using the language of rights, seek to determine which groups can have what rights to self-government under what conditions. The problem here is that the cases are too varied to fit into procrustean categories; that the language of rights lends itself poorly to compromise and bargaining, the essence of politics; and that very often the question of power is ignored. Specifically, once we take the issue out of the framework of the state (or existing legally entrenched supranational institutions) there is no regulator to legitimate or enforce rights. The second approach is that of conflict studies, which starts with the problem of competing claims and seeks to convert them into bargainable stakes. The problem here is that often ethical principles disappear altogether in the search for solutions that can work. Consociationalism, for example, has been widely criticized for stifling democratic participation, freezing ethnic boundaries, and placing excessive power in the hands of group leaders. So the principles of justice and stability may point in different directions. Too rarely are general norms placed in specific political, cultural and historical contexts (Requejo 1998c). This

¹ I am grateful to Richard Vernon, Dominique Arel and Damian Tambini for comments on earlier versions of this chapter.

chapter takes an empirical and comparative approach, examining the ways in which nationality and the state have been conceived in the four multinational states of the United Kingdom, Spain, Belgium and Canada, and the ways in which multinational polities have been managed. The findings are that the problem is less common in practice than in theory and that nationality claims are not arbitrary but emerge from a long process of political mobilization. If one puts aside the idea that the uniform state, an intellectual construction, should be the norm, then a reading of history and practice based on multinational accommodation is possible. It then looks at ways in which changing conceptions of the state and political order could help reconcile state and nation in the present era. Managing the nationality question then becomes part of normal politics, rather than a search for a definitive solution in accordance with fixed categories.

Nationalism and the state

It has often been claimed that nationalism is a form of zero-sum politics, as the claims it makes, to sovereignty and statehood, are non-divisible and non-negotiable. Closely related is the claim that nationalism is a product of modernization and confined to the modern era. Hobsbawm (1990) claims that the nation 'is a social entity only in so far as it relates to a certain kind of modern territorial state, the "nation-state", and it is pointless to discuss nation and nationality except insofar as they relate to it'. Breuilly (1994, p. 2) does not go so far, merely insisting that the 'nation must be as independent as possible. This usually requires at least the attainment of political sovereignty'. Both locate nationalism in the era of nation-states and thus see it as an essentially modern phenomenon. To speak of nationalism in previous eras, they insist, would be an anachronism. On the other side are nationalist historiographers, who feel obliged to claim ancient roots for the nation and attribute to it a constant striving for statehood.²

Attempts to pin down nationality, nationhood and sovereignty in this way invariably come up against the fluid and indeterminate nature of these concepts and their historical malleability. While Breuilly (1994) is no doubt right to warn that 'a vague definition of nationalism which includes any statements about nations or ethnic groups would create an

² The Scottish Declaration of Arbroath (1320) claims that the Scots are a lost tribe of Israel, arriving in Scotland after a transit through Spain. Sabino Arana, founder of modern Basque nationalism, had to invent a history of independent statehood to bolster claims advanced at the end of the nineteenth century. Belgian nationalists in the nineteenth century tried to claim ancient roots for their nation, just as Flemish nationalists did in their turn.

impossibly large subject', there is an equally serious danger of trapping ourselves in excessively rigid categories and so inventing conundrums which, by definition, have no solution. There are too many examples of things that look like nationalism in earlier ages to define it simply as the product of modernity, though it has taken distinct forms in the modern era. As for linking nationalism to the quest for statehood, this raises two objections. There are many movements which describe themselves and are described as nationalist in the present day which do not make such claims. Whenever this point is made, somebody counters that such nationalists are cunningly disguising their long-term ambitions behind short-term apparently moderate demands. This is an example of the tendency to ignore the evidence where it does not fit the theory or assumptions – nationalism is defined by the desire for one's own state so, in a circular manner, it is reasoned that nationalists must want their own state. Yet many scholars have now abandoned the search for a state as a necessary and defining feature of nationalism.³ Secondly, the ideas of sovereignty and statehood themselves are increasingly recognized as problematic and changing. If we recognize that neither nationalism nor sovereignty is an absolute and that both can change and evolve over time, and that the nation-state as it has existed since the nineteenth century is merely one way of doing this, then we open up a large array of possibilities for managing nationality issues.

Some authors take a very broad view of nationality, equating it with the ethnic group, although, as Connor (1978) shows, this leaves us with an almost infinite number of nations. Even leaving aside the fact that ethnicity itself is almost impossible to define, it is clear that it is not always equivalent to nationality. Most observers have now accepted this distinction (Miller 1995; Keating 1996a), although there is still argument about the ethnic component in nationality (Smith 1986). Beyond that, however, we get into serious difficulty. Miller (1995) recognizes that the Scots are not just an ethnic group (in fact they are ethnically rather heterogeneous), but draws attention to the difficulty of calling them a nation, since there is also a British nation. Yet Scotland is one of the oldest nations of Europe and its nationality is as close as we can perhaps get to a 'sociological reality'.⁴ At a meeting in Ottawa in 1998, agreement was reached on the proposition that Quebec is a nation, but almost came unstuck on the insistence by some of the Québécois

³ Anthony Smith includes it in Smith (1971) but abandons it in later writings.

⁴ Greenfeld (1992) claims that England, not Britain, was the earliest nation; Scotland has a claim to being not far behind. Colley (1992) argues that a British nation was created in the eighteenth century, but I would argue that the process was not completed until the twentieth, with the two world wars and the welfare state.

participants that it followed from this that Canada was not a nation. It does seem that the definition and content of nationality differ from one case to another, with some conceptions of it being more exclusive than others. So we need a category of nationality which is separate from that of the state-nation, but more than a mere cultural category, one that is broad enough to cover the diversity of cases, without being excessively wide. This is the category of the stateless nation – but what is this?

Kymlicka (1995) tries to separate ethnic group identity from nationality and provide a general basis for self-government claims by distinguishing between immigrants and national minorities, whose territory has been incorporated into a wider state, arguing that we should recognize the self-governing rights of the latter. This does help us limit the implications of recognizing self-government and allows for an argument which is historically rooted. It does not, however, travel well beyond North America or back in time. In Europe just about every ethnic and national group can be considered either immigrants or natives, depending on what the cut-off date is and who is doing the defining. The Normans came to Ireland with Strongbow in 1159 as settlers, although they assimilated within a couple of hundred years and no one considers them a separate group now. Irish Protestants, who arrived in the early seventeenth century, on the other hand, are a clearly distinct group but it is not clear whether they would be considered immigrants or natives. Scottish Catholics descended from Irish immigrants have until the last generation been a distinct community and maintained their own social institutions, but have now assimilated into the Scottish nation, sharing in the demand for a special place within the British state. Such settler groups existed widely around the fringes of Europe in the middle ages and their experiences of assimilation differ greatly.⁵ The German diaspora across central and eastern Europe has sometimes made irredentist claims, sometimes made claims for self-government, sometimes assimilated, and sometimes retained the option of returning to the motherland which the law, until recently, kept very open. Prussia, often regarded as the heartland of German nationalism, was originally a German settlement among the Slavs. Kosovo, whose Albanians claim the right of self-determination, is regarded by Serb nationalists as their homeland. Across central Europe generally, the mixing of peoples, and individual and collective migrations make it impossible to distinguish between indigenous peoples and incomers, or between settlers and individual migrants. Matters are even more complicated in places where people can invent or reinvent ancient territorial

⁵ For example, the Germans had distinct rights in the Baltic and central Europe; the Irish and Norman/English had different rights in Ireland.

identities, as in 'Padania' or Silesia. Nationality and rights claims on the West Bank of the Jordan pit the rival claims of Arabs, who have been there for some one and a half millennia, against those of Jews, who were dispossessed two millennia ago. It is not just in the past that groups have redefined their status and their demands. As we will see, nation-building and community-building projects are going on at present, giving rise to new types of demand. These may conjure up myths of a golden age of past self-government but they are no more than myths, that is, doctrines which may be true or false but whose power is quite independent of whether they are true or false.

If we treat the question of what is a nation as an empirical rather than a theoretical one, there is an infinity of answers. If it were merely a matter of cultural differences, we would hardly need the concept (except perhaps in the ancient sense of *natio*). Nationality involves more than this, but is a highly charged concept and cannot be defined descriptively, since it is essentially a series of normative claims. One such claim is that to self-determination. This does not mean, as often assumed, an automatic right to secession. Like other rights claims, it competes with those of other groups and individuals and so neither those making the claim nor those recognizing it have logically to believe that its expression and realization are unlimited. It may be no more than the right freely to negotiate one's position in a wider institutional order. Nationality claims are also essentially territorial. In medieval Europe, groups in ethnically mixed regions often had differentiated rights (Bartlett 1993) which tended later to disappear or be transmuted into territorial rights or differentiated systems of territorial government. In France, these survived until the Revolution (Braudel 1986) and in other parts of Europe lasted much longer. As we will see, these systems have remained part of the political practice of our four states. Finally, nationality claims are general in scope, presenting the nation as a broad system of social regulation or 'global society' rather than a fragment of a wider society, as is the case with ethnic or cultural particularism.

One way to advance these claims is by constituting an independent state, enjoying external sovereignty, with territorially defined boundaries and encompassing a set of governing institutions and civil society. There are still those, in countries like France, who can see the nation only in this way.⁶ Modernization theorists, from Durkheim on, have generally insisted that the advance of the modern state, together with industrialization and the market economy, would in turn erode territorial differences. Integration theorists like Deutsch (1966) continued the argument

⁶ For the French translation of my book, *Nations against the State*, the title had to be changed on the grounds that the distinction was meaningless in the French language.

in the postwar era. More recently, in a revamped version of modernization theory, some observers see the transformation of the state heralding the end of territory (Badie 1995), as political identities are multiple and rooted in groups whose spatial parameters may range from the very local to the global. Others disagree, arguing that the management of plurality, whether through consociational mechanisms at the centre, through federal accommodation, or through territorial management, has been a constant task of the modern state (Keating 1988; 1998a). In the present era, the context has changed but the essence of the task has not.

If territorial management simply involved reconciling the competing claims of existing units of people who had always been 'there', it would be difficult enough. In fact, nationality is a dynamic concept; 'nations' are created, reinvented and transformed all the time. In the late twentieth century, another process of restructuring is taking place as the transformation of the state has weakened its capacity for territorial and social integration. At the same time, we are seeing a reterritorialization of politics, a process traceable to functional, political and normative reasons. On the functional plane, in a global era, the process of economic change has become territorially differentiated and there is a substantial literature on the new regional development paradigm in which qualities linked to the territory itself become a factor in the productive process (Storper 1995; Dunford and Kafkalas 1992; Scott 1998). Cultural and linguistic policies, even in the age of mass communication, are increasingly territorialized. Politically, territory remains the principal basis for mobilization, and there is an increased emphasis on territorial, as opposed to sectoral, interests as the basis for political competition. Normatively, territory remains the basis for most systems of accountability and political representation. It has the advantage of being inclusive and permitting civic equality among the inhabitants of a given physical space and this accords with modern liberal democratic principles (although the question of where the boundary is drawn is crucial). It is this territorialization, or reterritorialization, of politics that, along with historic experience, is at the base of nationality claims, since a nationality is distinguished from an ethnic group, *inter alia*, by its territorial basis or homeland. These are rarely invented from nothing,⁷ but usually follow existing cultural, political and territorial fault lines, or at least use historical materials in forging their project. There are widely

⁷ The nearest case to a movement of territorial contestation arising merely from the crisis of the state in the context of internationalization is the Italian *Lega Nord*, but even this has had to mobilize existing, usually very local, networks as part of its project to create Padania. See Biorcio (1997). Like other ethno-nationalist movements, it has created its own history as, in the words of a sympathetic account, 'the oldest community in Europe' (Oneto 1997).

diverging interpretations of this phenomenon. For some, it is a case of reversion to 'tribalism', a premodern political identity based on affective group ties in contradiction to the modern or Enlightenment project of civil society. Others see it as part of the condition of postmodernism, in which the oppressive structures of the centralizing state and capitalism, as well as forced and alienating individualism, are rejected in the name of more authentic group identities and values. Both of these interpretations are brought into question by the fact that, across western industrialized societies at least, values are in fact converging, at the same time as political behaviour is showing more territorial divergence (Keating 1998a). It is not necessary, and often not the case, that national minorities or minority nations espouse different values in order to have legitimate claims (McCrone 1992; Norman 1995). This brings us to a third interpretation, which sees the reconstruction of territory as part of the condition of modernity, insisting that neither modernity, nor the Enlightenment nor liberal democracy are necessarily tied to the form of the nineteenth-century nation-state (Keating 1996a). Within liberal democracies, minority nationalist movements can therefore often claim precisely the same kind of democratic and liberal legitimation as the larger nations within which they are presently contained. In this way we can separate the claims of national self-determination from the plethora of particularistic claims made for policy differentiation by cultural groups.⁸

Yet paradoxically, this very process may make accommodation more difficult than if we were merely talking about cultural or value differences, which could be accommodated with policy differentiation. Instead, we are seeing nation-like claims to general powers of social regulation and disputes over the constitution of the public domain within which political argument takes place. This is the basis of the stateless nation, a phenomenon usually rooted in old cultural or institutional materials but reforged as a sphere of action in the conditions of late modernity. Some Quebec intellectuals have argued that, given the incompatible nation-building processes in Quebec and the rest of Canada, the only option is secession (Langlois 1991a,b; Gagnon and Rocher 1992a; Laforest 1992b). Miller (1995) comes close to the same argument, but recognizes the problem with territorialization, that however you draw the boundaries, there will always be minorities left on the wrong side. The new dispensation is producing not a new, neatly defined set of national categories, but a complex order in which categories and identities overlap. Another way of putting it is that, in

⁸ I am evading here the question of the native peoples of North America, a difficult question which I have not yet thought through.

places like Scotland and Quebec, there is a whole range of attitudes, from those who consider themselves exclusively Scottish or Québécois, to those (very few in number) who consider themselves exclusively British or Canadian. In between are a diminishing number who consider themselves Canadian or British, and Québécois or Scottish as a subset of this; and a growing number who consider themselves primarily Scottish or Québécois, with Britain and Canada seen more as instrumental identities than as primary ties. These are all territorially based national identities. They may be nested, in which case the problem is less acute, and can be accommodated through federal arrangements. They may compete, in which case there is a potential for conflict; or they may coexist. There is no way in which all of these groups can have their precise identities written into a constitutional document, but I would argue that there is no reason why, politically, they cannot coexist.

To return to an earlier point, very often this discussion is framed by an abstract model of the state in which unity and uniformity are assumed to be the norm and any deviation or distinctive treatment must be justified by reference to some universal and generalizable principle. Yet this does not correspond to political practice, even in the archetypal unitary state of France, still less so in multinational states.⁹ My argument is that one reading of the history and constitutional practice of multinational states reveals traditions and practices of national-territorial accommodation which can provide a guide to the present, but which compete with centralizing and unitarian doctrines. Territorial management is a form of normal politics, found in almost all states, and not a temporary phase, to be overcome by a definitive constitutional settlement, allowing 'normal' politics to resume. In the final section, I argue that the new state dispensation opens up yet more such possibilities for this sort of politics.

Four states which illustrate this are the multinational states of the United Kingdom, Spain, Belgium and Canada. Here the state's capacity for accommodation has diminished, while the demands of the minority component nationalities have increased. From one perspective, this is seen as a crisis of the state, a reversal of trends to modernity, equality and universal values. From another perspective, however, it appears as a need to renegotiate the terms of a multinational union, drawing both on historic traditions of pactism and accommodation, and on the opportunities provided by the new state order to rethink sovereignty and the

⁹ This is analogous to the assumption of many liberals that the atomized individual is both logically and historically prior to society and that therefore society needs a specific justification and explanation. As Ferguson (1767/1966) long ago pointed out, this is an intellectual construction that has no basis in human historical experience.

distribution of powers. Neither perspective provides any easy answers, but I will argue that the latter perspective at least provides a framework in which the issues can be addressed.

Models of the state

Rokkan and Urwin (1983) distinguish four models of the territorial state. The *unitary state* is built around one centre, with uniformity of institutions and policies. The *union state* has one centre of authority, but recognizes historic rights and infrastructures in various places. *Mechanical federalism* involves the division of the whole territory into federal units, with a single centre. *Organic federalism* is constructed from below, by distinct territories coming together, while retaining their own distinctive structures and severely limiting central control. So France is seen as a unitary state, while the UK and Spain are union states. Switzerland is an organic federation while Germany is a mechanical one. These distinctions are very important but for our purposes the key difference is between the unitary and mechanical federal models on the one hand, and the union and organic federal models on the other. In the former there is uniformity in institutions and a single focus of national identity, while in the latter there is variation, asymmetry and competing and overlapping foci of national identity. Within the union state, various parts are bearers of historic rights to self-regulation (Herrero de Miñón 1998), although these rights may be enshrined in constitutional law or merely be recognized by convention. Such historic rights have often been dismissed as irrelevant since the circumstances have changed since their enactment; as archaic, since they were enshrined in institutions that have little place in a democracy; or as reactionary since they represented privilege at a certain point in time and are incompatible with liberal equality. All these criticisms could be levelled at the nation-state itself, and the only people secure against them would be exponents of world government. So they perhaps reflect more the standpoint of the critics than any universal principles; and just as the nation-state itself, so historic rights can develop and democratize without losing their legitimating power. If we accept this idea, then mechanisms to recognize the rights and demands of specific territories can be justified. The state can be conceptualized as a pact, in which principles of territorial power need to be negotiated rather than imposed unilaterally. It is true that the pact in question is often implicit if not mythical but, once again, this applies to most forms of political authority, not least the nation-state. The history of our four states has lent itself to both unitary/mechanical

federal and union/organic federal interpretations and it is precisely here that the problem of national accommodation lies.

The United Kingdom was created in stages, starting with the Act of Union with Wales in 1536, through the Union of the Crowns of England and Scotland in 1603, to the Union of the Parliaments in 1707 and the Union with Ireland in 1800. The unitary state interpretation of this process is associated with the Conservative constitutionalist A.V. Dicey, who argued that, the English Parliament having established the principle of parliamentary supremacy in the sixteenth century, the successive parliaments created through the unions were also supreme (Dicey 1912; Dicey and Rait 1920). Unionists do not deny the multinational nature of the UK. On the contrary, they stress this as an argument against home rule. Former Prime Minister John Major (1992), in his response to Scottish constitutional demands, conceded that 'no nation can be kept in a union against its will'; and opponents of Irish home rule in the nineteenth century and of Scottish home rule in the twentieth have usually given independence as their second preferred option after the unitary state. They therefore have drawn the conclusion that any concession of self-government to the constituent nations would be a repudiation of the union since the constituent nations would reassume sovereign rights and, sovereignty being indivisible, this would lead to separation (Dicey 1912; Wilson 1970). On the other hand, Liberal and Labour governments which have brought forth home rule measures have argued that moderate concessions would satisfy national concerns in the periphery, but at the same time insisted that home rule would not in any way diminish the sovereignty of parliament. So Gladstone (1886) was at pains to distinguish Irish Home Rule from a repeal of the Union as favoured earlier by Daniel O'Connell since, while neither would create a separate state, the latter would recognize sovereignty as lying in Ireland. Similarly, the Labour Party's Scottish devolution proposals of the 1970s and the 1990s have been accompanied by protestations that the sovereignty of parliament would be unaffected.

The competing interpretation is that the Union is a pact negotiated among nations. This is on weakest ground as concerns Wales, which was never an independent state and was legally incorporated into England at an early stage. It is on much stronger ground in the case of Scotland since the Acts of Union were negotiated voluntarily and included provisions of basic law. Both English and Scottish parliaments were abolished¹⁰ in favour of a new parliament of Great Britain and, since the Scottish Parliament had never established the principle of absolute

¹⁰ Scottish nationalists will insist that the Scottish Parliament was actually only prorogued. There was some talk of recalling it after the 1992 General Election.

sovereignty, it is difficult to see how it could have brought this into the new institution. There is a legal judgement upholding this view, *McCormick vs. Lord Advocate* 1953 (Mitchell 1996)¹¹ and the Scottish constitutional Convention of the 1980s and 1990s explicitly asserted the sovereignty of the Scottish people and its rights to negotiate its own constitutional settlement (CSA 1988).¹² Interestingly, the Labour Party signed onto this, blissfully unconcerned that its insistence elsewhere on Westminster sovereignty was in contradiction. The current Scottish devolution takes the form of an act of the Westminster Parliament, which in principle could be repealed at any time and there is a clause in the Scotland Act explicitly saying that the Acts of Union shall not be superior law above it. Yet, in contrast to the situation in the 1970s, there has been more willingness to accept a made-in-Scotland input through the Scottish constitutional Convention. There was a similar argument about Ireland in the nineteenth century. Unionists argued that the old Irish Parliament was not sovereign since, under Poynings' Law (1494), all its acts had to be ratified by the English Parliament. Nationalists insisted that Poynings was a law imposed by the Irish Parliament on itself and in any case had been repealed during 'Grattan's Parliament' in the late eighteenth century.¹³ In the case of Northern Ireland, the sovereignty principle has come very close to being overturned altogether. Between 1937 and 1997 both the UK and the Republic of Ireland claimed sovereignty over Northern Ireland. Now under the terms of the Stormont accords, both have accepted that Northern Ireland, as a unit, has a right to self-determination and will decide freely to which state it wants to belong, with both states pledged to respect this choice. This follows general British weariness with the issue and earlier declarations that Britain had no selfish economic or political stake in Northern Ireland, a position far in advance of any that it has taken with regard to Scotland.

¹¹ The case concerned the Royal Titles Act, which gave the monarch the title of Elizabeth II, when there had been no Elizabeth I of Scotland. The case, and others like it, are of purely theoretical interest, since the courts declined to assume the right to overturn Acts of Parliament.

¹² The Scottish constitutional Convention was a civic forum dominated by the Labour and Liberal Democratic parties to draw up a scheme for home rule in the 1980s and 1990s. The Convention has a long tradition in Scotland and the deposition of James VII and the succession of William and Mary were undertaken by a Convention in 1689. In England, where the king ruled as James II, the deposition and succession were undertaken by Parliament. Home rule conventions had been summoned earlier in the twentieth century.

¹³ They also argued that, although the old Parliament had been dominated by the Protestant ascendancy, it could have evolved into a popular assembly, a claim later rejected by republicans deriving their legitimacy from the essential nationality of the Irish people.

In the UK there was no jacobin project of national socialization as in France. There has never been a British national educational curriculum. When, a few years ago, the government wanted more direct control over the content of education, it adopted four separate 'national' curriculums for the four nations of the UK. Opposition to Europe on the part of the Conservative right is often no more than a disguised English nationalism, which finds much less echo in Scotland. As for the other symbols of nationality, Norman Tebbit's notorious 'cricket test', in which Britons of West Indian origin were asked which team they would support, ignored the facts that (a) cricket is an English game virtually unknown in Scotland and (b) many Scots tend to cheer *any* foreign team taking the field against England in any sport (but especially in soccer). In the last thirty years, as the factors that held the union together have weakened, nation-building has recommenced in Scotland and, to a lesser degree, in Wales (Keating 1996b).

In Spain there is a similar disagreement about the nature of the state. Unionists argue in the words of the 1978 constitution that the Spanish people is sovereign, the state emanates from it and in turn recognizes and guarantees the right of autonomy to its nationalities and regions. Parada (1996), for example, sees Spain as a unitary creation, founded on the Castilian language, product of a long process of integration, and sanctified by the defining moment of the constitution of Cadiz (1812).¹⁴ Catalan nationalists espouse a very different view, drawing on their own traditions of shared sovereignty and compromise, rooted in the experience of pre-1714 Catalonia as a self-governing nation within a wider confederation. There are many permutations on this theme, but the common element is the belief that the Catalan people have a right to negotiate their own position within Spain and to project themselves more widely in the world and, especially, in Europe. This did not, however, prevent the moderate nationalists accepting the 1978 constitution and the statute of autonomy that was part of it. Basque nationalist traditions are different, since historically there was never a Basque state or a single government. Rather, Basque rights were rooted in the *fueros*, special provisions recognized in many parts of Spain after the Reconquista but of special importance to the Basque provinces. These involved limitations on royal power, and were a target for both centralizing monarchists and jacobin republicans before being finally eliminated in the 1870s, only the special fiscal arrangements remaining. It

¹⁴ Parada does not help his case by arguing that Spain is 'a single nation like France, *Great Britain*, Germany or the United States' (p. 7), then on the following page criticizing his opponents for denying that Spain is 'a nation-state like France, Germany or *England*' (my emphasis).

was Sabino Arana who wove these into a theory of Basque nationality and sovereignty, claiming that the old Basque Country had been an independent entity in voluntary union with Spain (De La Granja 1995; Jauregui 1996). So, in the high era of nationalism, a theory of medieval contractualism became a theory of national independence. This has remained the basis for Basque claims, with the moderate Basque Nationalist Party (PNV) refusing officially to recognize the 1978 constitution because it did not recognize the prior Basque claims, and the radical Herri Batasuna claiming that the Basques' future can be settled only by a referendum in the seven Basque provinces (three in the Basque autonomous community, the autonomous community of Navarre, and the Basque provinces of France). While the PNV have made use of the 1978 constitution and its autonomy provisions, they still see sovereignty as unfinished business (PNV 1995). They also recognize historic rights in the internal arrangement of the Basque autonomous community. The special fiscal powers of the *concierto económico* are exercised by the three provinces, and these are represented equally in the Basque Parliament, despite huge population disparities.

Spanish political practice since the transition has followed three tracks at various times. One is to accommodate the specific demands of the historic nationalities, as was done at the time of the transition, when provisions were put in place to try and limit autonomy to these three cases. A second is to limit autonomy, seek to recentralize and bring uniformity to the autonomy statutes, as with the LOAPA law of 1981 (Moreno 1997a). A third is to banalize the idea of nationality by measures such as allowing the autonomous communities of Aragon and Valencia to amend their statutes of autonomy to call themselves nationalities.

Belgium came much later to statehood than did its neighbours in France and the Netherlands. Up until the Napoleonic wars, it remained a congeries of territories under the overall jurisdiction of the Spanish and then the Austrian Habsburgs, each with its own privileges and special status. This typically premodern arrangement was radically disturbed by annexation to France under Napoleon, annexation by the Netherlands in 1815 and finally the establishment of a Belgian state in 1830. Belgium was organized on French unitary lines, with no recognition of intrinsic territorial rights, but coexisted with traditions and cultures which were inimical to this conception. Yet when the state came under challenge it was not from the old prestate units but from movements based on linguistic and cultural factors, starting among the Flemish-speaking part of the population. The state was then reconceptualized as a pact between two linguistic groups, to be reconciled

through consociational arrangements (Lode 1996a,b). Since the interwar years and particularly since the 1960s there has been a further development in which the Flemish elites, and to a lesser degree the Walloon ones, have staked claims to nationality analogous to those made in Scotland, Catalonia or the Basque Country. Gradually the consociational arrangements at the centre have given way to autonomy, initially separately for the territorial regions and linguistic communities. In turn, the regions and communities have begun to merge, fusing their institutions on the Flemish side, with only the question of Brussels preventing the movement from being complete. Unlike the Scottish and other national movements, the Flemish movement is not based on a historic territory (Lode 1996b), but has had to invent that territory as a common home for Flemish speakers. The process is accompanied by claims that a Flemish nation is historically rooted, ignoring the differences in the use of the word Flemish in past ages or the fact that the territory of historic Flanders comprises only a small part of the present autonomous region (Kerremans 1997). Indeed, there have been many complaints that the Flemish government itself has been highly centralizing, reducing the scope for the provinces and municipalities which were the focus of traditional forms of autonomy. Another marked feature of the Belgian case is the fact that the pressure for decentralization has not come from below – indeed public opinion in both language communities has become increasingly centralist – but from the elites (Collinge 1987; De Winter and Frogner 1997). It is tempting to conclude from this that the whole process is invented by political leaders for their own convenience, except that the lack of resistance reflects a rather weak sense of Belgian identity, and a failure of nation building at the Belgian level. At the same time, the European context and Belgium's support for further measures of European integration have allowed a further diffusion of power and the transfer of contested functions.

So Belgium may be a case where the practice of accommodation, pactism and limited sovereignty has won out over the earlier attempts to impose a unitary conception of the state, but the units which engage in this bargaining and which are the recipients of shared power have changed radically in composition and definition. We cannot say that present-day Flanders has a right to self-determination because it is home to a 'people' who were in the past self-governing. We can say that there is a nation-building project that needs to be taken seriously and that the rival Belgian project is foundering. Indeed, it is now difficult to counterpose the component regions/nationalities and the state, since the state itself has been shared out between the communities, and there is almost no one left to speak for Belgium.

Canada was at one time often described as a union of two founding peoples, rooted in contract and accommodation and, although this had more resonance in Quebec than elsewhere, it became a widely accepted feature of Canadian political accommodation (McRoberts 1997a). Despite periodic efforts at assimilation, the francophone population of Quebec was generally allowed to maintain its own culture, language and religion and, with confederation in 1867 gained constitutional powers of self-government. Decentralization of power to Quebec, along with the other provinces, complemented practices of accommodation at the Canadian level which, while falling short of consociationalism, provided for Quebec participation in the central government. Although Canada did have a written constitution of sorts and a formal distribution of powers between the two levels of government, doctrines relating to the nation and the state were perhaps even more vague and ill-specified than in the United Kingdom. Crises such as those over conscription put the relationship to a considerable test and there were periodic resurgences of Quebec nationalism, but from the 1960s the issue moved centre stage. One reason was the co-existence of two modernizing, nation-building projects, one centred on Quebec and the other on Canada. In the era of the so-called Quiet Revolution, the Quebec government took on increased state-like powers and challenged the ascendancy of the traditional and clerical elites who had maintained the distinctiveness of the 'French-Canadians' within Quebec and Canadian society. The ethnic division of labour was attacked, modernization took a distinctively Québécois form, and the ethnic group was transformed into a territorially based national society. At the same time, Canada was modernizing, asserting its independence both of Britain and the United States and equipping itself with such symbols of nationhood as its own flag. The clash of these two nation-building projects raised anew the question of just what sort of nation-state Canada was. Repatriation of the constitution in 1982 without the consent of the representatives of Quebec meant the rejection of the two-nations theory in favour of a majoritarian conception of Canada in which no one province could claim a special place. Federal bilingualism was a way of protecting the use of French while denying its status as a national language of Quebec. The Charter of Rights was seen by Quebec nationalists as an imposition from outside, and a way of undermining the cohesion of Quebec society itself (Laforest 1992b). Finally, the policy of multiculturalism was seen as a way of diluting Quebec's status as a founding nation by reducing it to the status of one cultural minority among many.

Consequently, three distinct doctrines of the Canadian nation-state have competed. One is the Trudeau vision, rooted in a form of mechan-

ical federalism, in which all citizens have equal rights and the same relationship to the federal government. No province has special status and only individual rights are recognized. The second is the 'two nations' doctrine, now expanded to three nations with the recognition of the rights of native peoples. In this, Quebec and the native peoples are seen as nations,¹⁵ with their own inherent rights, along with a third nation which is either Canada-as-a-whole or English Canada.¹⁶ As a corollary, relations among these groups should be managed in the form of partnership (Laforest 1998). The third conception is even more complex, and involves accepting the claims of any self-defined group to recognized status, collective rights and self-government. This view received expression in the failed Charlottetown Accord, with its complicated lists of categorical rights and convoluted arguments about how they would relate to the recognition of Quebec. This bears comparison with the Spanish strategy of *café para todos*, in which everyone is allowed to be special and therefore nobody is.

So there are elements in the constitutional history and traditions of all four states which point to accommodation and the recognition of multinationality and shared sovereignty. Advocates of this view often find it difficult to define the units which will be parties to the pact or to produce a coherent justification for this. Yet if we see historic rights as a living principle rather than a strictly reactionary one, then it is normal that the depository of these rights should evolve and change without losing the central idea. So the legatee of the historic rights of the Basque provinces can indeed be the unified community of Euskadi, constituted as a nation (Herrero de Miñón 1998); the Flemish and Québécois can develop a territorial nationalism with a cultural/linguistic element while still insisting on the idea of shared and limited sovereignty. These visions still compete with unitary or mechanical-federal visions which insist that one size must fit all. Similarly, on the part of the national minorities, there are elements that espouse the traditional zero-sum view of nationality and independence, and others that look both backwards and forwards to ideas of shared sovereignty and complex authority.

¹⁵ This is not to say that the native peoples are seen as a single nation, merely that their claims constitute a category.

¹⁶ Many people refuse to accept that the third nation can be Canada as a whole, since this includes the other two and insist that, for symmetry and to engage in a proper dialogue with Quebec and, in due course, the native peoples, it must be English Canada (Resnick 1995). This seems to me an effort to force symmetry where it does not exist, although the project is not an impossible one. Most people in Canada outside Quebec do seem to consider themselves just Canadian and see no need for an intermediate identity at the level of 'English Canada', a sentiment which I share myself.

The transformation of the state

Nationality claims have never been simply about getting one's own state. Self-determination has never been simply a matter of secession, but has involved the assertion of rights within a specific context, often as a matter of negotiation. Nowadays this is even more the case as the state itself is transformed. This transformation complicates nationality claims but also presents new opportunities for resolving or managing them. The idea of the state has been with us a long time, but the nation-state, in the form in which we know it, is a rather recent phenomenon. It represents the coincidence in space of a number of principles of social and economic organization. It is the primary focus of collective identity, reinforced and transmitted through culture and socialization. This collective identity in turn provides the basis for social solidarity. The state is the framework for internal and external security. It frames an economic system, allowing us to talk of national economies, with definable, if not impermeable, boundaries. It is a set of institutions and mechanism for policy making. In this sense, the nation-state is the product of the modern era. It is not, *pace* most international relations scholars, the product of the Peace of Westphalia in 1648. The only European state that has the same boundaries in 2001 as in 1648 is Portugal, and that has lost an empire which profoundly shaped its internal politics. If we look at the internal construction of the nation-state, this is even more clear. The substantive content of the nation-state is largely the product of state and nation building since the nineteenth century. The nation-state has always been in transition, and the present era is no exception, sparking a renewed debate on the 'end of sovereignty' (Camilleri and Falk 1992). It is being transformed institutionally from above, by the rise of international regimes, notably, in the four cases discussed here, the European Union and the North American Free Trade Agreement (NAFTA); and below by territorial assertion. Its functional capacity remains high, but interdependence is limiting its autonomous use of this. Its scope for autonomous economic management is being eroded from above, by globalization, capital mobility and the rise of the multinational corporation; laterally by the advance of the market; and from below by forms of economic restructuring rooted in local and regional specificities. The three-directional erosion of the nation-state from above, from below, and laterally in the face of the market, has broken the link between economic change and policy making and between policy making and representation. It has weakened social solidarity and made difficult the old class compromises and trade-offs which underpinned the west European welfare settlement of the

postwar era. It has undermined old strategies of territorial management based on the distribution of economic resources and state monopoly of the links between regions and the global market. It has even threatened economic efficiency, by militating against the production of public goods and the social cooperation which is the essential counterpart to competition in a market economy.¹⁷

So we are in a world where multiple spheres of authority coexist with multiple systems of action. As we have seen, these tendencies have always been present, albeit neglected in unitary accounts of the state. They recall an earlier era of overlapping authority, multiple identity and complexity, before the rise of the modern state (Tilly 1990, 1994) but, as noted, there are continuing elements in the constitutional practice of the four states that would enable us to grasp this new politics. I have argued that politics is in some respects reterritorializing and that minorities are able to claim various forms of self-government rooted in historic rights and practices. Yet territorial devolution is not always the answer, since there is still the problem of internal minorities or minorities-within-minorities; and the fit between territory and function is still somewhat tenuous and varies from one function to another.

Unpacking sovereignty

While simply returning to a past of shared and overlapping sovereignties is not, therefore possible, there are elements in the new global order which may permit us again to unpack the functions of the nation-state, allowing differentiated forms of autonomy and differentiation of policy spheres. Many of these depend on the development of supranational forms of political order, especially where substate groups have direct access to them. Gradually, if tentatively, the idea has spread that the state is not the only subject of international law, modifying traditional conceptions of sovereignty (Held 1995).

One area in which conflict has been generated is that of human rights, with nation-states insisting that they provide the only framework for defining and enforcing them. This produces the paradox that universal rights are defined in a national framework, itself determined by the state majority. Minority nationalists frequently object to the assumption that universal rights are not safe in their hands. This is an area in which international jurisdiction has developed considerably. It has gone furthest in Europe, where the European Convention on Human Rights has been incorporated into the legal system of many states. It is

¹⁷ These issues are discussed at greater length in Keating (1996a and 1998a).

noteworthy that the 1998 Scotland Act and Northern Ireland Act provide that the Scottish Parliament and Northern Ireland Assembly will be limited, not by a UK Charter of Rights but by the European Convention, allowing the courts to strike down laws passed by the devolved bodies if they infringe the Charter. Similarly, devolved governments in Spain and Belgium are subject to the European Charter, though in these cases there is also a national constitution, which has been used in Spain to limit the scope of the autonomous communities in matters of language law. In Canada, on the other hand, the Charter of rights is rejected by many in Quebec as the imposition of a unitary conception of Canadian nationality on the Quebec people (Laforest 1992b); this is not the same as a supranational system as operated in Europe. Europe has gone much less far in defining and entrenching collective rights such as those of linguistic groups. There are charters of minority languages and the Council of Europe has been active in the field of cultural minorities, but this work is more exhortatory. The point I am making is that as the question of individual rights is taken out of the hands of the state it is divorced from nationality so that national minorities can subscribe to universal principles without surrendering their identity. This also removes an excuse used by states to reject asymmetrical constitutional arrangements, on the ground that this would allow devolved governments to impinge on universal individual rights.

European Union law, largely aimed at creating a uniformity of market conditions, may serve a similar purpose in limiting the ability of devolved governments to discriminate. The 1998 Catalan language law, for instance, is carefully phrased to avoid conflicting with European single-market regulations. In some cases, indeed, Europe has guaranteed a greater equality of rights than exist within the state, as illustrated by two recent cases. In 1997, the British government stipulated that students from England, Wales and Northern Ireland would pay higher fees at Scottish universities while those from the other fourteen states of the EU would qualify for the lower Scottish rate.¹⁸ In the same year, the European Court of Justice ruled that the special fiscal privileges available to investors domiciled in the Basque Country investing in Basque industry would have to be extended to other citizens of the EU, but not necessarily to those of other regions of Spain.

¹⁸ The origins of this bizarre circumstance lie in the fact that Scottish honours degree courses are of four years' duration while elsewhere in the UK they are of three years. The Scottish Office decided to use its budget to ensure that Scottish students would only have to pay the same total amount for their degrees as students studying elsewhere in the UK, but was not prepared to use its money to subsidize non-Scottish students for the four-year course. Further complications arose in 2000 when the new Scottish Parliament abolished the fee.

This search for political spaces beyond the nation-state is not new. Catalan nationalists in 1932 proclaimed an independent Catalan republic within the 'Iberian federation'. Since there was never any chance of the Portuguese surrendering their statehood to bring such a federation about, this was a pipe-dream; but it had the attraction of offering a common framework free of the accumulated weight of Spanish nationalism. More recently, the British and Irish governments have invented the idea of the 'islands' (no longer referred to as the British Isles) as a forum for bringing together on conditions of equality a variety of sovereign, semi-sovereign and non-sovereign bodies (see below).

A great deal has been written on the opportunities presented by global and regional free trade for substate entities to enhance their autonomy (Keating 1992). States have lost many of their old powers of macro-economic regulation, and attention has shifted to the importance of regions and localities for economic change and restructuring. Ohmae (1995) argues that global free trade is leading to the rise of 'regional states'. Although his argument can be criticized as ill-informed, simplistic and economically determinist and many people would find his rigorously neo-liberal trading order unattractive, there is a growing literature on the way in which substate territories are positioning themselves in the global economy (Scott 1998).

Another feature of global change and continental integration, especially in Europe, is a blurring of sovereignty. In the European Union, sovereignty is shared, although not all member states have come around to this. None actually mentions membership of the European Union in its constitution, although the German Basic Law now contains a provision giving the *Länder*, through the Bundesrat, a veto on the transfer of sovereign powers to international bodies, which in effect means the EU, and the proposals for constitutional reform in Italy would explicitly embrace the European dimension and the regions' place in it (Bicamerale 1997). In the UK, the new devolution settlement for Scotland and Wales are based on the continuing sovereignty of Parliament. In the case of Northern Ireland, however, British governments have gone a long way to accepting shared sovereignty with the Republic of Ireland. The idea is to allow the two communities in Northern Ireland to express their different national identities through the creation of new over-arching institutions. The 1998 Stormont Agreement provides for a North-South Ministerial Council to link the Republic with Northern Ireland, a British-Irish Intergovernmental Conference to recognize the stake of the two 'sovereign' states, and a British-Irish Council in which the Republic of Ireland, the UK government, the Northern Irish Assembly, the Scottish Parliament, the Welsh Assembly